

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS,  
EASTERN DIVISION**

FRED NANCE, JR.,

Plaintiff,

v.

NBCUNIVERSAL MEDIA LLC,  
UNIVERSAL TELEVISION LLC, OPEN 4  
BUSINESS PRODUCTIONS LLC, JOAN  
PHILO CASTING and EMPIRE CASTING,

Defendants.

Case No. 1:16-cv-11635

Judge Leinenweber

Magistrate Judge Cox

**RESPONSE OF DEFENDANTS NBCUNIVERSAL MEDIA LLC, UNIVERSAL  
TELEVISION LLC, OPEN 4 BUSINESS PRODUCTIONS LLC AND JOAN PHILO  
CASTING TO PLAINTIFF FRED NANCE, JR'S MOTION TO COMPEL**

Defendants NBCUniversal Media LLC, Universal Television LLC, Open 4 Business Productions LLC, and Joan Philo Casting (the “NBC Defendants”) respond as follows to Plaintiff Fred Nance’s Motion to Compel:

1. On May 3, 2018, this Court issued a Minute Order—following a status hearing—requiring the Defendants to answer the remaining counts in Plaintiff’s Third Amended Complaint by May 17, 2018 and directing parties to complete all discovery by December 3, 2018 (the “Discovery Close”).

2. On June 27, 2018, the NBC Defendants served their First Set of Interrogatories and First Request for Production of Documents on Plaintiff. Plaintiff, who received these discovery requests on July 2, 2018, emailed counsel for the NBC Defendants on July 22, 2018 to request additional time in which to respond. Counsel, after an exchange of emails with Plaintiff, agreed to an extension through August 31, 2018. Plaintiff emailed responses to counsel on

August 17, 2018.

3. On August 21, 2018, Plaintiff served his First Request for Production of Documents and First Set of Interrogatories on the NBC Defendants. Plaintiff's First Set of Interrogatories included 30 separate, numbered interrogatories. The NBC Defendants requested an extension of time in which to respond to Plaintiff's discovery requests to which Plaintiff agreed. The NBC Universal Defendants served their answers and objections to Plaintiff's written discovery requests on October 1, 2018; the NBC Universal Defendants objected and declined to respond to Interrogatory Nos. 26 through 30 because Plaintiff exceeded the number of interrogatories allowed by Federal Rule of Civil Procedure 33.

4. The Defendants took Plaintiff's deposition on October 3, 2018. During the deposition, counsel for the NBC Universal Defendants told Plaintiff that certain documents had been withheld because the NBC Universal Defendants wished to produce them subject to a protective order, explaining that certain documents could also be produced by Plaintiff subject to said order.

5. On or about November 17, 2018, counsel for the Universal Defendants emailed a draft Proposed Confidentiality Order to Plaintiff explaining that counsel used the template found on the court's website but made some revisions because there were multiple parties involved in the litigation. Plaintiff replied by email the next day, November 18, 2018, explaining that he would not sign the Proposed Confidentiality Order, adding that he would address his issues with the document in court.

6. On December 2, 2018, Plaintiff emailed his Second Set of Interrogatories and Second Request for Production of Documents to counsel for the NBC Defendants. Plaintiff also mailed said requests to counsel for the NBC Defendants, but they had not yet been received

when the parties appeared in court on December 5, 2018.

7. As a threshold matter, Plaintiff's motion should be denied because he did not file it until December 12, 2018—9 days after discovery closed on December 3, 2018. Even if the Court opts to consider Plaintiff's motion, he is not entitled to the relief he seeks because the discovery to which he seeks to compel the Defendants to respond was not timely served. Because the Federal Rules permit 30 days for the responding party to answer discovery requests, it logically follows that the requesting party must propound his discovery requests "at least 30 days before the discovery cutoff." *Smith v. Principal Cas. Ins. Co.*, 131 F.R.D. 104, 105 (S.D. Miss. 1990) (holding interrogatories served six (6) days prior to the discovery cut off were untimely); *see also Thomas v. Pacificorp*, 324 F.3d 1176, 1179 (10th Cir. 2003) (stating that discovery requests served on the date of discovery cut off would be untimely).

8. Plaintiff was thus required to serve his second set of discovery requests no later than November 4, 2018, since discovery closed on December 3, 2018. Serving discovery on December 2, 2018—one day before the close of discovery—does not suffice as it did not give the Defendants at least 30 days to respond.

9. Plaintiff is also unable to compel Defendants to respond to his Second Set of Interrogatories because, as explained above, he has already exceeded the number of interrogatories allowed by FRCP 33. The Universal Defendants responded to the first 25 interrogatories propounded by Plaintiff, objecting to Interrogatory Nos. 26 through 30. Plaintiff's Second Set of Interrogatories includes another 11 interrogatories; Plaintiff has thus propounded a total of 41 interrogatories, or 16 more than allowed by FRCP 33. Significantly, Plaintiff did not take issue with the NBC Universal Defendants' objections to and refusal to answer Interrogatory Nos. 26 through 30 before discovery ended, nor does he do so here.

WHEREFORE, Defendants NBC Universal Media LLC, Universal Television LLC, Open 4 Business Productions LLC and Joan Philo Casting respectfully request that this Court deny Plaintiff's Motion to Compel and grant any other relief the Court deems just.

Date: January 3, 2019.

Respectfully submitted,

/s/ Aaron Gelb

Aaron Gelb

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 3, 2019 a true and correct copy of the foregoing RESPONSE OF DEFENDANTS NBCUNIVERSAL MEDIA LLC, UNIVERSAL TELEVISION LLC, OPEN 4 BUSINESS PRODUCTIONS LLC AND JOAN PHILO CASTING TO PLAINTIFF FRED NANCE, JR'S MOTION TO COMPEL was served, enclosed in a sealed envelope with postage fully prepaid, via the United States Postal Service in Washington, DC addressed to the following *Pro Se* Party:

Fred L Nance, Jr  
17239 Evans Avenue  
South Holland, IL 60473-3436

*Pro Se Plaintiff*

I hereby certify that on January 3, 2019 a true and correct copy of the foregoing RESPONSE OF DEFENDANTS NBCUNIVERSAL MEDIA LLC, UNIVERSAL TELEVISION LLC, OPEN 4 BUSINESS PRODUCTIONS LLC AND JOAN PHILO CASTING TO PLAINTIFF FRED NANCE, JR'S MOTION TO COMPEL was served via ECF electronic filing on the following:

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/s/ Aaron Gelb  
Aaron Gelb